



**MINUTES OF MEETING  
ZONING BOARD OF APPEALS  
TOWN OF CHESTER  
APRIL 24, 2018**

The meeting was called to order by Mary Jane Dower at 7:07PM.

**ATTENDANCE:**

Chairperson Mary Jane Dower, John MacMillan, Arnold Jensen, Bill Oliver and Tom Thorsen. Also, in attendance, Walt Tennyson (Zoning Administrator), Craig Leggett (Town Supervisor), Wendy Lynch (neighbor), Larry Estell (neighbor) and Rob Simon (representing the Walsh party from Smith & Simon, LLC).

**PUBLIC HEARING:**

Mary Jane Dower opened public hearing at 7:08PM.

**#442-V:** Thomas & JoAnne Walsh and Robert Walsh & Janet E. Talley are requesting a 52.4 frontline setback variance, according to Section 4.03 of the Town of Chester Zoning Local Law, in order to replace an existing camp with a new dwelling. Property is located at 212 Hill Park Road, identified by Tax Map Parcel #: 120.14-1-11, in Zone Classification Moderate Intensity.

Rob Simon representing the Walsh party spoke on their behalf. He stated the road is quirky in orientation. The road comes in on the side making this the front yard (referenced drawing included in packet). If that is what is considered the front yard then these are the sidelines then the only place for a house is where it is on the drawing (referenced drawing in packet). It sits in such a way there is a small triangle and only one place for house. He does not deny this is a large house but it is consistent with other houses in the development. The orientation is also consistent with other houses in the area as they all face the water. It just is a big variance. He told client he can't attach stairs to the house as that would add to size and require larger variance on the lake side. If it was a sideline variance it is a smaller variance request at 7.4 ft. There are not a lot of choices, it is an old subdivision with old boundaries. That is the presentation, not much else to say.

Arnold Jensen stated he had been to property and understands what they are trying to do. In general, he has no problems with it. He stated the frontline and sidelines are bazaar in this case. If road continued through the property there would be no room for the garage at all. He agrees it is consistent with surrounding neighbors. It is a necessity to have a 6 ft side deck? The variance could be cut substantially if we just had a 3ft. walk around.

Rob Simon stated he can present that to the client to see what they say. Also, any other ideas he will gladly bring to client.

Arnold Jensen stated he believes we should shrink it down to what is plausible. He stated it is much more cost and the only reason he sees is just so they can walk around the house

because it is on an uneven piece of property. He can see having a walkway but no reason for such a large deck.

Rob Simon stated if there was a good reason for the 6 ft deck could they just make it closer to grade as an alternative.

Arnold Jensen understands why the front deck is that large.

Rob Simon will try to convince client to go to 3ft instead of 6 ft.

John MacMillan stated he considers the line near Finn's and the Flatley's the sidelines. We need to make a determination amongst ourselves what is considered frontline and what is considered sideline. He referenced drawing and stated from the end of the road to the property point is the frontline setback.

Rob Simon stated he is not arguing that.

John MacMillan stated he would still need a large variance but it would be less. In one of his jobs they had a similar issue and that was how they determined what the frontline was.

Wendy Lynch (lives at 202 Hill Park Rd.) asked if she could ask a question? She asked if they approve variance does that mean everyone can move their house out that far on that side of the road?

John MacMillan stated that each one is decided on a case by case basis.

Arnold Jensen agrees it seems to be consistent with others as you drive away.

Wendy Lynch stated she agrees that is consistent with others. She also stated that when her family bought the property in 1929 they bought the road as well. This client did not. She is concerned about the road.

Arnold Jensen stated that when someone buys on a private road and does not contribute to the expenses bothers him tremendously.

Wendy Lynch also stated she just moved up here full time. Most residents are just summer people. There are only 6 on the road and she is concerned with the heavy truck traffic during construction.

Rob Simon stated whether or not the client purchased the road is irrelevant as any damage they would be required to fix by right of way law. He will also speak to them about contributing to road as that is a bit tacky.

Tom Thorsen stated the reason we are here tonight is the sideline variance. Tom Thorsen asked Wendy Lynch "How do you feel about that?"

Wendy Lynch stated they do not butt up against her property at all (she is 2 houses away) so she has no issue with that. The Flatley's and the Monaco's are next door so they would be the ones to ask.

John MacMillan asked if letters were sent out to the neighbors. Wendy Lynch stated she had received one.

Wendy Lynch also stated she spoke to the neighbors and they did not seem to have an issue but did not want to speak on their behalf.

Arnold Jensen stated the fact we did not receive any letters from neighbors and they are not in attendance so they must not be too upset over variance request.

Arnold Jensen asked if the road was ever used and if anyone walks through there? Wendy Lynch stated she does and her kids did when they were small.

Arnold Jensen stated he understands that used to be a “through” road and used at one time. Rob Simon agreed. Wendy Lynch also stated she does not ever remember that.

Rob Simon stated back in the 20’s it was.

John MacMillan stated that people walking through property has no bearing on what we are deciding.

Rob Simon stated if this line is considered frontline as Walt had already determined then the variance is just large.

Arnold Jensen stated it would uninhabitable without variance approval and Rob Simon agreed.

John MacMillan stated you could just stay on original footprint. But, the dwelling would be much smaller.

John MacMillan questioned where does frontline start from? This is not an easy deal to decide because we have to determine what frontline is or they are deliberating over wrong variance. It could be a sideline variance or it could be both front and sideline. He feels they need a frontline and a sideline which is 2 variances. You are closer than 60 ft from front side and encroaching on the side.

Rob Simon disagreed with that.

Arnold Jensen stated to John that is no legal road going to or by property.

John MacMillan stated that where the road meets the property that would be considered frontline.

Rob Simon does see what John is saying. He also stated he always understood the frontline to be where the road is. He referenced small drawing on his scratch paper.

John MacMillan just wants to be clear about what variance they are debating.

Arnold Jensen stated if Walt decided it was the frontline then he is in agreement. It has been decided.

John MacMillan, Rob Simon, Mary Jane Dower and Arnold Jensen pondered over the drawing included in the packet to try to determine frontline vs. sideline.

Tom Thorsen stated even if we cut the deck from 6 ft to 3 ft it does not make a whole lot of difference in variance.

Arnold Jensen stated we just have to decide if it is appropriate size for this town and location regardless of what is frontline or sideline. He also stated it will not have any adverse effects on the environment.

Mary Jane Dower stated you have to cut many trees down and need some kind of drainage.

Rob Simon stated he will do all that as he needs to for building permit.

Tom Thorsen asked how client came up with the sizing of the house?

Rob Simon stated it was the size the client requested, not sure why it is so large.

Tom Thorsen stated it makes it harder for board to come up with any alternatives.

Bill Oliver stated he would like to see a set of plans.

Tom Thorsen stated we could examine other alternatives, for example, instead of 52 ft make 32 ft.

John MacMillan also stated you could change the orientation of the house as well proposing garage could move up and house could be turned perpendicular to the lake. He also stated it is typical for client to put largest they can on property to leave room for negotiation of size.

Rob Simon state he offered that idea up when speaking to client and he did not want to do that.

John MacMillan stated as part of the Zoning Board's job is to determine if there are any other feasible alternatives.

Rob Simon doesn't feel that shaving off a couple of feet here and there still keeps the variance request large. There is no way around that.

Tom Thorsen stated you could shave off more than just a couple of feet.

Rob Simon stated he agreed but that would make the house a very different shape.

Tom Thorsen asked how does client know this is his footprint without actual plans?

Ron Simon can only say that is what they want.

Arnold Jensen stated it keeps coming back to does it hurt environment or neighbors or will it look bad. The answer is no.

John MacMillan stated that is a very large variance to grant and Arnold Jensen added "on a very unique property".

John MacMillan still feels moving garage and changing orientation of house is not unreasonable. So you have 32 feet of lake front view instead of 52. This would decrease variance request so there are feasible alternatives.

Rob Simon feels by doing that the same problem occurs in different location on the property.

Tom Thorsen is concerned about the precedence they would be setting by granting this variance. Someone else may have a similar issue but it doesn't work out like this one and then what.

Arnold Jensen, Tom Thorsen and Rob Simon all agreed this is a very unique situation.

Rob Simon reinforced that it is not inconsistent with the neighborhood. The house fits it's just we have this issue because of the shape of the land and crazy set up of the road.

Arnold Jensen stated if it was not as wide and was a bit deeper he would be ok with that.

Rob Simon stated if he went to client and said you have to be within the 15 ft from said line would that suffice?

Bill Oliver stated they could just drop the deck off.

Rob Simon stated if he abides by the 15ft whether he reconfigures house or garage or whatever would that be ok?

All board members were in agreement that would probably be ok.

Arnold Jensen stated he thought that was reasonable and could be accomplished a couple different ways by eliminating side deck.

John MacMillan asked why they need the side deck? The deck is massive.

Arnold Jensen could see just having a walkway instead of large deck as the property is on such uneven ground.

John MacMillan stated there are solutions without having that deck. He sees other options here. Usually if neighbors are ok with it he is ok with it but at the end of the day we have to decide if there are feasible alternatives. He also stated that this house can be reconfigured and you still get the same square footage.

Rob Simon stated he feels abiding to the 15ft. was a reasonable solution because it could really be a sideline. If that was the case no variance is needed.

John MacMillan concurred that it could be both frontline and sideline.

Rob Simon would go to client and say if you can live with abiding to the 15ft sideline then they will grant variance.

Arnold Jensen stated it can't go closer to the lake.

Tom Thorsen stated the next door neighbor had spoken to Jeremy Little about the issue and seemed to have no problems with it. But, no letter was officially received.

Rob Simon asked what does he do now?

Arnold Jensen stated they will not grant variance as is. You will have to come back to next month's meeting with plans and drawings.

Larry Estell (188 Hill Park Road) had a question. He felt there was a typo in letter about the area it falls in called "Moderate Intensity". He thought it should be Moderate Density. John MacMillan stated no "Intensity" was correct. Larry Estell wanted to know what the lot size is for that type of classification? Rob Simon stated 2.3 acres.

John MacMillan stated these are all non-conforming pre-existing lots.

Larry Estell wanted to know if the existing structure on the drawing included the big deck on it already?

Rob Simon stated it should and checked drawing. The deck was included on it.

Larry Estell asked why the APA decides the 50 ft setback and not the town?

Rob Simon stated both town and APA abide by that. The town plan is APA approved.

There was some conversing amongst Rob Simon, Larry Estell, John MacMillan and Arnold Jensen over the 50 ft setback rule and which line was which on the drawing. Minutes could not be heard on tape as a cell phone rang in the background and everyone was talking over each other.

John MacMillan stated the client has to understand we can request actual drawings ahead of time but does understand why he has not had them done ahead of time.

Rob Simon agrees this is a very fair request and if client doesn't agree he can find another lawyer.

Arnold Jensen stated he can always leave the house where it is.

Rob Simon stated the client can work it out as he wishes. He asked if a new application would be required?

Mary Jane Dower stated we will table this discussion/variance and continue next month.

John MacMillan made motion to table this variance request (application #442-V) and continue at next month's meeting. Seconded by Arnold Jensen. All in favor. 5/0. Public Hearing is still open.

**CORRESPONDENCE:** Zoning Administrator and Sanitary Code Enforcement Officer's Activity Report for February and March 2018.

**NEW BUSINESS:** None.

**OLD BUSINESS:** None.

**MINUTES:** Arnold Jensen made motion to approve minutes from February 27, 2018. Seconded by John MacMillan. All in favor. 5/0.

**PUBLIC PRIVILEGE:** None.

**BOARD PRIVILEGE:** None.

**ADJOURNMENT:** John MacMillan made motion to close meeting at 7:47PM. Seconded by Arnold Jensen. All in favor. 5-0.

Respectfully submitted,

Brandi Bessette  
Secretary  
Zoning Board of Appeals